

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ERNEST GREEN,

Defendant.

23-CR-122-LJV-MJR
DECISION & ORDER

The defendant, Ernest Green, was indicted for conspiring to possess fentanyl and cocaine with the intent to distribute those substances (Count 1) and for distributing fentanyl that caused a death (Count 2).¹ Docket Item 1. This Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 3.

Green filed an omnibus motion seeking dismissal of the indictment and the suppression of certain evidence and making various discovery and disclosure demands. Docket Item 26. The government then responded.² Docket Item 27. After hearing oral argument, see Docket Item 33, Judge Roemer issued a Report, Recommendation, and Order (“RR&O”) ruling on the discovery and disclosure motions and recommending that this Court deny Green’s motions to dismiss the indictment and suppress evidence, Docket Item 34.

¹ Green later was charged in a superseding indictment that added two counts, possessing cocaine with the intent to distribute it (Count 3) and possessing cocaine and fentanyl with the intent to distribute those substances (Count 4). Docket Item 16.

² Green did not file a reply.

Green did not object to the RR&O, and the time to do so now has expired. See *id.* (setting deadline for filing objections as March 27, 2025). For that reason, Green has waived his right to have the RR&O reviewed. See Fed. R. Crim. P. 59(b)(2) (“Failure to object in accordance with this rule waives a party’s right to review.”).

Nevertheless, in its discretion, this Court has reviewed the RR&O as well as the parties’ submissions to Judge Roemer in connection with Green’s omnibus motion. Based on that review and the absence of any objection, and for the reasons stated in the RR&O, this Court adopts the RR&O in its entirety. Green’s motions to dismiss the indictment and suppress evidence, Docket Item 26, are DENIED.

SO ORDERED.

Dated: April 16, 2025
Buffalo, New York

/s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE